

(4) The regulated article is eligible for unrestricted movement under all other Federal domestic plant quarantines and regulations applicable to the regulated article.

(b) An inspector<sup>6</sup> will issue a limited permit for the interstate movement of a regulated article if the inspector determines that:

(1) The regulated article is to be moved interstate to a specified destination for specified handling, processing, or utilization (the destination and other conditions to be listed in the limited permit), and this interstate movement will not result in the spread of the West Indian fruit fly because life stages of the West Indian fruit fly will be destroyed by the specified handling, processing, or utilization;

(2) The regulated article is to be moved in compliance with any additional emergency conditions the Administrator may impose under section 414 of the Plant Protection Act (Title IV, Pub. L. 106-224, 114 Stat. 444, 7 U.S.C. 7714) to prevent the spread of the West Indian fruit fly; and

(3) The regulated article is eligible for interstate movement under all other Federal domestic plant quarantines and regulations applicable to the regulated article.

(c) Certificates and limited permits for the interstate movement of regulated articles may be issued by an inspector or person operating under a compliance agreement. A person operating under a compliance agreement may issue a certificate for the interstate movement of a regulated article if an inspector has determined that the regulated article is eligible for a certificate in accordance with paragraph (a) of this section. A person operating under a compliance agreement may issue a limited permit for interstate movement of a regulated article when an inspector has determined that the regulated article is eligible for a limited permit in accordance with paragraph (b) of this section.

(d) Any certificate or limited permit that has been issued may be withdrawn, either orally or in writing, by an inspector if he or she determines that the holder of the certificate or

limited permit has not complied with all conditions in this subpart for the use of the certificate or limited permit. If the withdrawal is oral, the withdrawal and the reasons for the withdrawal will be confirmed in writing as promptly as circumstances allow. Any person whose certificate or limited permit has been withdrawn may appeal the decision in writing to the Administrator within 10 days after receiving the written notification of the withdrawal. The appeal must state all of the facts and reasons upon which the person relies to show that the certificate or limited permit was wrongfully withdrawn. As promptly as circumstances allow, the Administrator will grant or deny the appeal, in writing, stating the reasons for the decision. A hearing will be held to resolve any conflict as to any material fact. Rules of practice concerning a hearing will be adopted by the Administrator.

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#### **§ 301.98-6 Compliance agreements and cancellation.**

(a) Any person engaged in growing, handling, or moving regulated articles may enter into a compliance agreement when an inspector determines that the person understands this subpart, agrees to comply with its provisions, and agrees to comply with all the provisions contained in the compliance agreement.<sup>7</sup>

(b) Any compliance agreement may be canceled, either orally or in writing, by an inspector whenever the inspector finds that the person who has entered into the compliance agreement has failed to comply with this subpart. If the cancellation is oral, the cancellation and the reasons for the cancellation will be confirmed in writing as promptly as circumstances allow. Any person whose compliance agreement has been canceled may appeal the decision, in writing, within 10 days after

<sup>7</sup>Compliance agreement forms are available without charge from the Animal and Plant Health Inspection Service, Plant Protection and Quarantine, Invasive Species and Pest Management, 4700 River Road Unit 134, Riverdale, MD 20737-1236, and from local offices of the Plant Protection and Quarantine, which are listed in telephone directories.

<sup>6</sup>See footnote 4 to § 301.98-5(a).

## § 301.98-7

receiving written notification of the cancellation. The appeal must state all of the facts and reasons upon which the person relies to show that the compliance agreement was wrongfully canceled. As promptly as circumstances allow, the Administrator will grant or deny the appeal, in writing, stating the reasons for the decision. A hearing will be held to resolve any conflict as to any material fact. Rules of practice concerning a hearing will be adopted by the Administrator.

### § 301.98-7 Assembly and inspection of regulated articles.

(a) Any person (other than a person authorized to issue certificates or limited permits under § 301.98-5(c)) who desires to move a regulated article interstate accompanied by a certificate or limited permit must notify an inspector<sup>8</sup> as far in advance of the desired interstate movement as possible, but no less than 48 hours before the desired interstate movement.

(b) The regulated article must be assembled at the place and in the manner the inspector designates as necessary to comply with this subpart.

### § 301.98-8 Attachment and disposition of certificates and limited permits.

(a) A certificate or limited permit required for the interstate movement of a regulated article must, at all times during the interstate movement, be:

(1) Attached to the outside of the container containing the regulated article; or

(2) Attached to the regulated article itself if not in a container; or

(3) Attached to the consignee's copy of the accompanying waybill. If the certificate or limited permit is attached to the consignee's copy of the waybill, the regulated article must be sufficiently described on the certificate or limited permit and on the waybill to identify the regulated article.

(b) The certificate or limited permit for the interstate movement of a regulated article must be furnished by the carrier to the consignee listed on the certificate or limited permit upon ar-

## 7 CFR Ch. III (1-1-02 Edition)

rival at the location provided on the certificate or limited permit.

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### § 301.98-9 Costs and charges.

The services of the inspector during normal business hours (8 a.m. to 4:30 p.m., Monday through Friday, except holidays) will be furnished without cost. The user will be responsible for all costs and charges arising from inspection and other services provided outside normal business hours.

### § 301.98-10 Treatments.

Treatment schedules listed in the Plant Protection and Quarantine Treatment Manual to destroy the West Indian fruit fly are authorized for use on regulated articles. The Plant Protection and Quarantine Treatment Manual is incorporated by reference. For the full identification of this standard, see § 300.1 of this chapter, "Materials incorporated by reference." The following treatments also may be used for the regulated articles indicated:

(a) *Soil within the dripline of plants that are producing or have produced the fruits and vegetables listed in § 301.98-2(a) of this subpart.* Apply diazinon at the rate of 5 pounds active ingredient per acre to the soil within the dripline with sufficient water to wet the soil to at least a depth of ½ inch.

(b) *Premises.* Fields, groves, or areas that are located within a quarantined area but outside the infested core area and that produce regulated articles may receive regular treatments with either malathion or spinosad bait spray as an alternative to treating fruits and vegetables as provided in the Plant Protection and Quarantine Treatment Manual. These treatments must take place at 6- to 10-day intervals, starting a sufficient time before harvest (but not less than 30 days before harvest) to allow for development of West Indian fruit fly egg and larvae. Determination of the time period must be based on the day degrees model for West Indian fruit fly. Once treatment has begun, it must continue through the harvest period. The malathion bait spray treatment must be applied by aircraft or ground

<sup>8</sup> See footnote 4 to § 301.98-5(a).